

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHARLES SHEPPARD,

Plaintiff,

v.

ORDER

18-cv-896-wmc

JAMES PATTERSON, JOLINDA
WATERMAN, and SANDRA MCARDLE,

Defendants.

Pro se plaintiff Charles Sheppard, a prisoner at the Wisconsin Secure Program Facility (“WSPF”), is proceeding in this lawsuit pursuant to 42 U.S.C. § 1983, on Eighth Amendment and state law claims related to multiple WSPF employees’ decisions to abruptly terminate his medication and then fail to treat his withdrawal symptoms in August of 2018. Defendant Sandra McArdle filed a motion for partial summary judgment on the ground that Sheppard failed to exhaust his administrative remedies with respect to his claim that McArdle treated Sheppard with ineffective medication. (Dkt. #56.) On March 27, 2020, after Sheppard did not timely oppose McArdle’s motion, the court gave Sheppard until April 10, 2020, to file a response to McArdle’s motion, warning Sheppard that his failure to file a response would cause the court to grant McArdle’s motion as unopposed and dismiss without prejudice Sheppard’s claim related to her decision to prescribe ineffective medication. (Dkt. #67.) That deadline has passed and Sheppard has not filed an opposition, nor has he communicated with the court otherwise suggesting that he intends to oppose the motion. Accordingly, the court is now granting McArdle’s motion for partial summary judgment as unopposed, and Sheppard’s claim that McArdle

prescribed him ineffective medication will be dismissed without prejudice. *Ford v. Johnson*, 362 F.3d 395, 401 (7th Cir. 2004) (dismissal for failure to exhaust is always without prejudice).

ORDER

IT IS ORDERED that:

- 1) Defendant Sandra McArdle's motion for partial summary judgment (dkt. #56) is GRANTED.
- 2) Plaintiff Charles Sheppard's claim against McArdle related to Sheppard's claim that McArdle treated Sheppard with ineffective medication is DISMISSED without prejudice.

Dated this 22nd day of April, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge